



The Commonwealth of Massachusetts
Executive Office of Public Safety and Security
Department of Fire Services

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MEMORANDUM

TO: Heads of Fire Departments

FROM: Stephen D. Coan
 State Fire Marshal

DATE: July 1, 2009

SUBJECT: UST Transition Information

Effective July 1, 2009, the Underground Storage Tank Program will be transferred to MassDEP. This has been done as part of the Governor’s Article 87 legislation filed earlier this year and enacted into law as Chapter 4 of the Acts of 2009. This transfer will better align the program goals with each agency’s overall mission. As a result of this transfer, there are several items that I want to make you aware of as part of that transition.

First, as of July 1st non-criminal citations may not be written against 527 CMR 9 as it relates to the environmental aspects of the UST program. We will notify the courts so that these are removed from the list of approved fire department citations. Any citations written prior to July 1, 2009 should be resolved following the normal procedures governing non-criminal citations.

Second, as part of our outreach to the regulated community and regulators we have attached three documents to this memo that deal with the transition on behalf of the MassDEP. These documents have been jointly prepared to provide a continuity of information to the regulated community and regulators. We wanted to make sure you had the opportunity to see the same documents, in the event any questions come to you or your department.

Finally, what does the transfer of the UST program mean to you? The role of the Fire Chief or Fire Department has not changed with respect to permitting the installation and removal of USTs, nor the permits and licensing requirements under 527 CMR 14. Permitting should continue in the same manner at the local level, as it has for years. For years prior to the UST Program coming to

the Office of the State Fire Marshal, the Board of Fire Prevention Regulations had regulations governing the fire and explosion hazards relating to tanks, containers, fuel dispensers, self-serve gas stations, etc., which were and still remain under the authority of the local fire chief. The aspects of the UST Program with respect to environmental concerns and leaks will effectively be transferred to MassDEP. MassDEP will have rule making authority to promulgate regulations governing USTs that relate mainly to leak prevention.

Under the Article 87 legislation, no Fire Chief is required to perform any act on behalf of MassDEP. The Fire Chief will still have the sole authority to issue abatement orders as it relates to a fire and/or explosion hazard. In addition, the Fire Chief still retains the ability to require records from tank owners and issue abatement orders if the Fire Chief believes there is a fire and/or explosion hazard as a result of a leaking UST.

If you have any questions, please feel free to contact the Code Compliance and Enforcement Unit at 978-567-3300 or at our Western MA office at 413-587-3181.

SDC/bhs